IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6773 OF 2005

1. Sadashiv Dattatraya Kurunkar
2. Vijay Sadashiv Kurunkar
3. Nilesh Rangrao Kurunkar ...Applicants

Vs.

The State of Maharashtra ...Respondent

Shri Kuldeep S. Patil for the Applicants.
Shri A.S. Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 24, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State. The offence registered against the Applicant is under section 302 read with section 34 of the Indian Penal Code.

2. Shri Patil appearing for the Applicant submitted that so far as the Applicant Nos.2 and 3 are concerned, general allegation has been made against them regarding the assault on deceased by sticks. He pointed out that according to the eye witnesses, the assault had taken place at 08.30 p.m. and the deceased was found at 09.45 p.m. in front of a shop premises of one of the witnesses. He submitted that obviously, the offence under section 302 of the Indian Penal Code is not made out. He pointed out the

version of the witnesses which records that the deceased was himself a ‘gunda’. The learned A.P.P. has invited my attention to the material on record.

3. Perusal of the Post Mortem Notes show that though there are large number of injuries, the fatal injury appears to have been caused by the Applicant No.1 by using a sickle which is apparent from the cause of death mentioned in column No.22. Age of the Applicant Nos. 2 and 3 is shown to be less than twenty-five years. The allegation against them is that they accompanied the Applicant No.1 when the deceased was assaulted. The Applicant Nos. 2 is the son of the Applicant No.1 and the Applicant No.3 is the nephew of the Applicant No.1. The general allegations have been made against them regard the assault on the deceased by using sticks.

4. Considering the facts which are peculiar to this case and considering the young age of the said Applicants, case is made out for enlarging the Applicant Nos.2 and 3 on bail. However, no case is made out so far as the Applicant No.1 is concerned.

5. Hence, I pass the following order:

: O R D E R :

i) Application of the Applicant No.1 is rejected.

ii) The Applicant No.2 (Vijay Sadashiv Kurunkar) and Applicant No.3 (Nilesh Rangrao Kurunkar) shall be enlarged on bail in connection with **C.R.No.48 of 2005 registered with Gadhinglaj Police Station, District Kolhapur,** subject to furnishing a personal bond of **Rs.10,000/- each** with one or two sureties in the like amount.

iii) The Bail is granted subject to condition that the Applicant Nos.2 and 3 will report to the concerned Police Station once in a month till the conclusion of the trial.

iv) The Bail is granted subject to condition that the Applicant Nos.2 and 3 shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicant Nos.2 and 3 shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant Nos.2 and 3 to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE